

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
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CIVIL ACTION NO. 04-11520RWZ
P 4:26

U.S. DISTRICT COURT
DISTRICT OF MASS.

NEAL A. COWE,)
Plaintiff)
)
v.)
)
LYNCH, BREWER, HOFFMAN AND)
SANDS, Allis LYNCH, BREWER,)
HOFFMAN & FINK, COMMONWEALTH)
OF MASSACHUSETTS ADMINISTRATIVE)
CHIEF JUSTICE OF THE SUPERIOR COURT)
SUSAN DELVECCHIO, COMMONWEALTH)
of MASSACHUSETTS OFFICIAL COURT)
REPORTER LILA MOREAU, SLOANE AND)
WALSH AND MITCHELL & DESIMONE,)
Defendants)

MOTION OF DEFENDANT MITCHELL & DESIMONE TO DISMISS

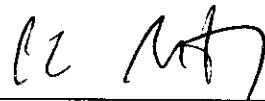
Now comes the defendant, Mitchell & DeSimone, pursuant to Federal Rules Civil Procedure 12 (b)(6), who moves that this action be dismissed as to defendant, Mitchell & DeSimone. As grounds in support, this defendant states:

1. The Complaint is insufficient with respect to the requirements of Fed. R. Civ. P. 8 in that it is so confused, ambiguous, vague, or otherwise unintelligible to prevent a response with respect to any alleged meritorious claims therein.
2. Mitchell & DeSimone was defense counsel on a third-party motor vehicle tort action filed by plaintiff at Dedham District Court.
3. It is clear that any allegation made with respect to Mitchell & DeSimone, that any purported claim against it would be barred under Massachusetts immunity principles;
4. The Complaint fails to state a claim upon which relief can be granted; and

5. The defendant also relies upon the enclosed memorandum in support of this motion.

WHEREFORE, defendant, Mitchell & DeSimone moves that all claims against them be dismissed with prejudice.

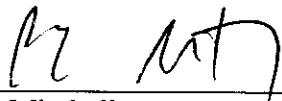
Respectfully submitted,



Paul E. Mitchell, BBO# 550491
Mitchell & DeSimone
99 Summer Street
Boston, MA 02110
(617) 737-8300

CERTIFICATE OF SERVICE

I, Paul E. Mitchell, certify that on the date shown below, I made service of the foregoing document, by causing a copy thereof to sent by U.S. mail, postage prepaid, Certified Mail, return receipt requested, and via Federal Express, Neal A. Cowe, 1393 Briar Ridge Court, Jonesboro, GA 30238 on this 22th Day of October, 2004.



Paul E. Mitchell